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Client/Matter No.: PHNL 000099 (7790/233)

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Darrin Wesley Harris (40,636)
Name of Appellant, assignee or registered representative
D. W. Harris
Signature
September 27, 2005
Date of Signature

PATENT
Case No. PHNL 000099
(7790/233)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:)	
)	
MARK THOMAS JOHNSON)	
)	Examiner: WU, XIAO MIN
Serial No.: 09/804,021)	
)	Group Art Unit: 2674
Filed: MARCH 12, 2001)	
)	
For: DISPLAY DEVICE)	

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows:

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 2 of 18

TABLE OF CONTENTS

	<u>Page</u>
1. REAL PARTY IN INTEREST.....	3
2. RELATED APPEALS AND INTERFERENCES.....	4
3. STATUS OF CLAIMS.....	5
4. STATUS OF AMENDMENTS.....	6
5. SUMMARY OF CLAIMED INVENTION.....	7
6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....	8
7. ARGUMENT.....	9
8. CLAIMS APPENDIX.....	14
9. EVIDENCE APPENDIX.....	None
10. RELATED PROCEEDINGS APPENDIX.....	None

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 3 of 18

1. REAL PARTY IN INTEREST

The real party in interest is the assignee of record U.S. Philips Corporation, a Delaware corporation having an office and a place of business at 1251 Avenue of the Americas, New York, NY 10020-1104.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 4 of 18

2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 5 of 18

3. STATUS OF CLAIMS

Claims 1, 4-10, 13-16 and 18-20 are currently pending in the present application,
and are the claims on appeal. See, Claims Appendix.

September 27, 2005
Case No. PHNI. 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 6 of 18

4. STATUS OF AMENDMENTS

Appellant filed an after final request for reconsideration under 37 C.F.R. §1.116 in response to a Final Office Action dated May 3, 2005. The request for reconsideration did not contain any amendments to claims 1, 4-10, 13-16 and 18-20.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 7 of 18

5. SUMMARY OF THE INVENTION

As illustrated in FIG. 1, a display device 1 comprises a matrix 4 of a plurality of electroluminescent pixels 6. A drive element 13-15 of display device 1 includes a plurality of emitted-radiation photosensors 18 operably coupled to the electroluminescent pixels 6 for detecting and adjusting radiation emitted by the pixels 6. A plurality of reference photosensors 16 of display device 1 are optically shielded from the emitted radiation for detecting ambient radiation. See, U.S. Patent Application Serial No. 09/804,021 at page 3, line 17 to line 2, and at page 4, line 23 to page 5, line 2.

A computing unit 20 of display device 1 is operably connected to receive signals from the reference photosensors 16 and the one emitted-radiation photosensors 18, wherein the drive element 13-15 adjusts emitted radiation based on signals from the computing unit 20 which are corrected for an influence of the detected ambient radiation. See, U.S. Patent Application Serial No. 09/804,021 at page 5, line 3-23.

In an alternate embodiment as illustrated in FIG. 5, a functional unit 22 detachable from display device 1 may have reference photosensors 16 and computing device 20 mounting thereon. See, U.S. Patent Application Serial No. 09/804,021 at page 5, line 24-33.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 8 of 18

6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 4-10, 13-16 and 18-20 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,518,962 to *Kimura* et al. in view of U.S. Patent No. 6,549,179 to *Youngquist* et al.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 9 of 18

7. ARGUMENT

Kimura and Youngquist. Examiner Wu has correctly recognized the failure of *Kimura* to teach or suggest a reference photosensor that is shielded from radiation emitted by pixels. A careful review of *Youngquist* reveals that *Youngquist* also fails to teach or suggest a reference photosensor that is shielded from radiation emitted by pixels

Specifically, as illustrated in FIGS. 1-3, *Youngquist* discloses an aperture 24 in a printed circuit board 22 for a reference photosensor that is used to sense ambient light levels and thus provide feedback control to a desired brightness level for the display in daylight time and a desired brightness level for the display at night time. See, *Youngquist* at column 3, lines 54-60, and column 4, lines 33-36. Examiner Wu asserts that aperture 24 shields the reference photosensor from radiation emitted from LEDs 20 despite the fact that *Youngquist* never, positively or negatively, states whether aperture 24 shields the photosensor from radiation emitted from LEDs 20.

However, from FIGS. 1-3, *Youngquist* does teaches a need for an anti-reflection coating on printed circuit board 22 to thereby minimize any reflection of the radiation emitted from LEDs 20 by the printed circuit board 22. *Youngquist* further teaches a need to employ a polarizing filter 56 that blocks any reflections by printed circuit board 22 of the radiation emitted by LEDs 20. See, *Youngquist* at column 6, lines 6-9 and at column 8, lines 10-24. It is therefore unequivocally clear that *Youngquist*

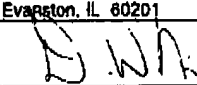
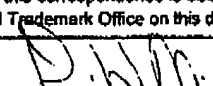
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TRANSMITTAL FORM (to be used for all correspondence after inputting)	Attorney Docket No.	PHNL 000099 (7790/233)
	Application Number	09/804,021
	Filing Date	MARCH 12, 2001
	First Named Inventor	MARK T. JOHNSON
	Group Art Unit	2674
	Examiner	WU, XIAO MIN

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Amendment <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Status Letter <input type="checkbox"/> Petition for Extension of Time Request (dup) <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement, PTO-1449, art <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawings: <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request of Refund	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Brief (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Post Card Receipt <input type="checkbox"/> Additional Enclosure(s) (please identify below): <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <div style="border: 1px solid black; height: 20px; width: 100%;"></div>
<input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. <u>50-1713</u> (CARDINAL LAW GROUP). A duplicate copy of this sheet is enclosed.		
<input checked="" type="checkbox"/> I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. <u>50-1713</u> (CARDINAL LAW GROUP). A duplicate copy of this sheet is enclosed.		

CALCULATION OF FEE

				Small Entity		or	Large Entity	
	Claims After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	Rate	Add'l Fee
Total		Minus		0	x \$26=	0	x \$50=	
Indep.		Minus		0	x \$100=	0	x \$200=	
First Presentation of Multiple Dep. Claim					+ \$180=	—	+ \$360=	
					total add'l fee	\$ 0	total add'l fee	\$

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	DARRIN WESLEY HARRIS Registration No. 48,636 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201	
Signature		Date <u>September 27, 2005</u>
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Signature	 DARRIN WESLEY HARRIS (40,636)	Date: <u>September 27, 2005</u>

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 10 of 18

acknowledges that a portion of the radiation emitted among the LEDs 20 adjacent aperture 24 follows a path from such adjacent LEDs 20 to the opening of aperture 24 whereby *Youngquist* desires for such light not to be reflected by printed circuit board 22 and for polarizing filter 56 to block any portion of such light that is nonetheless reflected by printed circuit board 22 (i.e., aperture 24 is not isolated from LEDs 20 as asserted by Examiner Wu).

What is not explicitly taught by *Youngquist* is the positioning of a top surface of the reference photosensor relative to an opening of aperture 24. In other words, *Youngquist* fails to explicitly teach whether the top surface of the reference photosensor extends out of the opening of aperture 24 parallel to the LEDs 20, is flushed with the opening of aperture 24 or is buried within aperture 24 as asserted by Examiner Wu. The Appellant respectfully asserts that, in view of the essential requirement of the reference photosensor to sense ambient light passing through lens 54 and filter 56 and in view of the minimal reflection of ambient light between filter 56 and printed circuit board 22, it is implicit that a top surface of the reference photosensor is at least flush with the opening of aperture 24. As such, the reference photosensor is not shielded from the radiation emitted by the adjacent LEDs 20.

Obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 11 of 18

modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See, MPEP §2143.

Claims. The Appellant respectfully traverses the obviousness rejection of independent claims 1, 9 and 15, because the combination of *Kimura* and *Youngquist* fails to teach or suggest “whercin the at least one reference photosensor is shielded from the emitted radiation” as recited in independent claim 1; “at least one reference photosensor optically shielded from the emitted radiation for detecting ambient radiation” as recited in independent claim 9; and “at least one reference photosensor arranged for detecting ambient radiation without detecting radiation emitted by the electroluminescent pixels” as recited in independent claim 15. Withdrawal of the rejection of independent claims 1, 9 and 15 under 35 U.S.C. §103(a) as being obvious over *Kimura* in view of *Youngquist* is therefore respectfully requested.

Claims 4-8 depend from independent claim 1. Therefore, dependent claims 4-8 include all of the elements and limitations of independent claim 1. It is therefore respectfully submitted by the Appellant that dependent claims 4-8 are allowable over *Kimura* in view of *Youngquist* for the same reason as set forth herein with respect to independent claim 1 being allowable over *Kimura* in view of *Youngquist*. Withdrawal of the rejection of dependent claims 4-8 under 35 U.S.C. §103(a) as being unpatentable over *Kimura* in view of *Youngquist* is therefore respectfully requested.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 12 of 18

Claims 10, 13 and 14 depend from independent claim 9. Therefore, dependent claims 10, 13 and 14 include all of the elements and limitations of independent claim 9. It is therefore respectfully submitted by the Appellant that dependent claims 10, 13 and 14 are allowable over *Kimura* in view of *Youngquist* for the same reason as set forth herein with respect to independent claim 9 being allowable over *Kimura* in view of *Youngquist*. Withdrawal of the rejection of dependent claims 10, 13 and 14 under 35 U.S.C. §103(a) as being unpatentable over *Kimura* in view of *Youngquist* is therefore respectfully requested.

Claims 16 and 18-20 depend from independent claim 15. Therefore, dependent claims 16 and 18-20 include all of the elements and limitations of independent claim 15. It is therefore respectfully submitted by the Appellant that dependent claims 16 and 18-20 are allowable over *Kimura* in view of *Youngquist* for the same reason as set forth herein with respect to independent claim 15 being allowable over *Kimura* in view of *Youngquist*. Withdrawal of the rejection of dependent claims 16 and 18-20 under 35 U.S.C. §103(a) as being unpatentable over *Kimura* in view of *Youngquist* is therefore respectfully requested.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 13 of 18

Dated: September 27, 2005

Respectfully submitted,

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September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 14 of 18

CLAIMS APPENDIX

1. A display device comprising electroluminescent pixels and a drive element comprising means for detecting and adjusting radiation emitted by the pixels, and correction means for correcting the adjustments for an influence of detected ambient light radiation, characterized in that the correction means comprise at least one reference photosensor for detecting the ambient radiation; wherein the at least one reference photosensor is shielded from the emitted radiation.
4. The display device of claim 1, wherein the drive element comprises means for performing computing operations on photocurrent (parameter) values obtained via at least one reference photosensor.
5. The display device of claim 1, wherein said device comprises a further functional unit of which the at least one reference photosensor forms part.
6. The display device of claim 1, wherein the at least one reference photosensor is detachable from the display device.
7. The display device of claim 1, wherein the pixels are arranged in the form of a matrix.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 15 of 18

8. The display device of claim 7 wherein the pixels are connected to row and/or column electrodes via switches.
9. A display device comprising: a plurality of electroluminescent pixels, a drive element including at least one emitted-radiation photosensor operably coupled to the electroluminescent pixels for detecting and adjusting radiation emitted by the pixels, at least one reference photosensor optically shielded from the emitted radiation for detecting ambient radiation, a computing unit operably connected to receive signals from the at least one reference photosensor and the at least one emitted-radiation photosensor, wherein the drive element adjusts emitted radiation based on signals from the computing unit which are corrected for an influence of the detected ambient radiation.
10. The display device of claim 9, wherein the reference photosensors are at least temporarily detachable from the display device.
13. The display device of claim 9 further comprising a device that is operably connected to the electroluminescent pixels and is selected from the group consisting of: fingerprint sensors, touch screens, CCD sensors, cameras, and scanners.
14. The device of claim 9 wherein the computing unit further stores the signals from the reference photosensors and the signals from the electroluminescent pixels.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 16 of 18

15. A display device comprising: a plurality of electroluminescent pixels, at least one reference photosensor arranged for detecting ambient radiation without detecting radiation emitted by the electroluminescent pixels, at least one emitted-radiation photosensor for detecting said emitted radiation and a drive element operably connected to the at least one reference photosensor, to the at least one emitted-radiation sensor and to the electroluminescent pixels to control the emitted radiation independently of the influence of ambient radiation detected by the at least one reference photosensor.

16. The display device of claim 15 wherein the at least one reference photosensor is at least temporarily detachable from the display device.

18. The display device of claim 15 further comprising a device that is operably connected to the electroluminescent pixels and is selected from the group consisting of: fingerprint sensors, touch screens, CCD sensors, cameras, and scanners.

19. The display device of claim 15, wherein the electroluminescent pixels are arranged in the form of a matrix.

20. The display device of claim 19 wherein the electroluminescent pixels are connected to row or column electrodes via switches.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 17 of 18

EVIDENCE APPENDIX

None.

September 27, 2005
Case No. PHNL 000099 (7790/233)
Serial No.: 09/804,021
Filed: March 12, 2001
Page 18 of 18

RELATED PROCEEDINGS APPENDIX

None.